

**IN THE UNITED STATES DISTRICT COURT
THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

Michael Hayes, et al.,)	
)	Case No. 3:13-cv-0028
Plaintiffs,)	
)	Judge Trauger
v.)	Magistrate Judge Bryant
)	
Theresa Burns, d/b/a Gap Community)	
Develpoment Resources, Inc., et al.)	
)	
Defendants)	

DENIAL OF DEFAULT

Plaintiffs have filed a Request for Entry of Default against Defendants Theresa Burns, Jeff L. Carter and Wilson and Associates (Docket Entry No. 19). The request as to Wilson & Associates is denied as that Defendant filed a Motion to Dismiss (Docket Entry No. 7) which is pending before the Court. The request as to Defendants Burns and Carter also is denied as no returns of service have been filed with the Court and the Clerk cannot confirm they have been properly served. In addition, no affidavits of military service have been provided for Defendants Burns and Carter. Affidavits that satisfy the requirements of the Servicemembers Civil Relief Act of 2003 (50 App. U.S.C. 501 et seq.) must be provided. The Act requires that affidavits be submitted that “state whether or not the Defendant is in military service and **showing facts necessary to support the affidavit**” (emphasis added). Information on the military status of an individual can be obtained at the Department of Defense website at <https://www.dmdc.osd.mil/appj/scra/>. That website provides an on-line search utility (SSN required) as well as a help button link that provides information on where requests for

information can be sent (no SSN required) to determine whether a particular individual is on active duty in the military. Alternatively, a sworn statement or declaration from the Defendant or someone in a position to know the military status of the individual could be accepted. Other factors, such as the age of Defendant if beyond the age for service can be considered.

s/ Keith Throckmorton

Keith Throckmorton
Clerk of Court